REMARKS

After receiving the June 17, 2004 office action, a telephone interview occurred on August 12, 2004 involving the Examiner, John Baudhuin of Applicant Mad Dogg Athletics, and the undersigned. The outstanding rejections to claims 15-34 and cited prior art (U.S. Design Patent No. 291,462 to Aalto) were discussed. The history of the SPINNING® brand of stationary bicycle exercise as it relates to the claimed method was also discussed. To this end, reference was made to the in-person interview between Applicant, Applicant's attorney and the Examiner that occurred on May 23, 2002.

No agreement was reached during the August 12, 2004 telephone interview regarding amendments to the claims that might overcome the outstanding rejections. However, several types of amendments were discussed during the interview which Applicant believes are embodied in the amended claims.

A. The Claimed Method

Applicant first described the benefits and commercial success of the claimed method as evidenced by the fact that the SPINNING® brand of stationary bicycle exercise created a new and successful category of exercise. Applicant explained that the claimed method represented a significant departure from then-existing types of stationary bicycle exercise. This is because at the time of the invention, the market was focused on computerized bikes, e.g., the Life Cycle, that did not provide for the simulation of different bicycle riding positions. Applicant then explained how the success of the SPINNING® brand of stationary bicycle exercise and the claimed method led to it being copied by numerous third parties.

Applicant then described how the claimed method and the bike associated therewith allow a rider to simulate different riding positions. For example, Applicant described how the fixed gear or direct drive (or as set forth in the application, a dual chain tension device) facilitated a rider's smooth transition between sitting and standing positions to simulate different riding conditions. Applicant also described how the frame and handlebar geometry of the bike also allowed for different riding positions as set forth in the claimed method. To this end, reference was made to how the geometry of the frame shown in the patent application as well as the SPINNER® bike was open and adjustable enough to allow different sized riders to assume different riding positions.

B. Rejection Based on Aalto

The rejection of claims 15-23, 25-32 and 34 based on Aalto was then discussed. Applicant described the Aalto bike's significant limitations. First, the Aalto bike shown in the cited design patent did not disclose or teach a direct drive or fixed gear. Applicant confirmed that Aalto was an ergometer on which the rider sits and measurements such as lung capacity are taken.

Second, the Aalto bike did not have the geometry to allow a rider to smoothly transition from sitting and standing positions to simulate different riding positions. To this end, Applicant noted how the Aalto frame, seat and handlebar were relatively close and in such a configuration that would prevent smooth transitions between sitting and standing positions with different gripping positions on the handlebar.

The Examiner noted that Applicant's remarks were well-taken but believed that the pending claims did not reflect the distinction between the claimed method and the prior art. Different possible claim amendments were then discussed. The first type of

amendment discussed regarded providing more specificity regarding the rider's center of gravity on the bike as well as how the direct drive or fixed gear (dual tension device as set forth in the application) facilitates transitioning between sitting and standing.

Applicant is submitting amended claims that are believed to address the foregoing. Claims 15 and 27 have been amended to include several more features that were previously contained in dependent claims 19, 20 and 25-26 (with respect to claim 15) and in dependent claims 29, 30 and 34 (with respect to claim 27).

These amended claims are supported by the specification. The open nature of the frame and the adjustability of the seat and handlebar assemblies show how the rider may vary his or her center of gravity while riding in different positions according to the claimed method. This is shown by figures 1, 2, 5 and 6A, and is also discussed in paragraphs 3, 8, 9, 13, 14, 25, 26, 30, 31, 32, 43, 44 and 49 of the application.

The bike of the claimed method also now includes "a flywheel mounted on the frame and coupled to the pedal assembly via a chain thereby forming a dual chain tension device" and the claimed method sets forth how the dual chain tension device facilitates the smooth transition between sitting and standing positions. While this feature was referred to during the August 12, 2004 interview as the "direct drive" or "fixed gear," the specification refers to this feature as the "dual chain tension device" set forth in paragraph 48 of the specification. Applicant submits that the direct drive or fixed gear nature of the dual chain tension device is also shown in figures 2 and 3.[1]

[1] While the Examiner indicated during the interview that the mechanisms shown in figures 1-2 could pertain to a coasting or free-wheeling device, Applicant respectfully submits that these figures do not show any coasting or freewheeling capability.

The "dual chain tension device" terminology indicates that there is tension on the chain in dual respects, or on different parts of the chain. For example, consider when the rider moves from a sitting position to a standing position.

As the rider pushes down on one of the pedals (downstroke pedal), energy is imparted to the flywheel and tension is created in the bottom part of the chain, i.e., that part of the chain extending between the bottom of the pedal assembly and the bottom of the location where the chain engages the flywheel.

As the rider stands, at least part of the rider's weight is typically supported by the other pedal which is going through an upstroke. Because the flywheel is still rotating due to the energy imparted to it by the downstroke pedal, the rider's weight on the upstroke pedal creates tension in the upper part of the chain, i.e., that part of the chain extending between the top of the pedal assembly and the top of the location where the chain engages the flywheel. This tension helps pull the pedal through the upstroke and facilitates the smooth transition from sitting to standing.

In sum, the dual chain tension device of claims 15 and 27 (formed by the pedal assembly coupled to the flywheel via a chain) maintains tension on the chain in dual respects and provides for the smooth transition between sitting and standing. The benefits of the dual chain tension device in the claimed method is shown when compared to methods and bikes involving a freewheeling arrangement.

To this end, consider the transition from a sitting position to a standing position when the rider's feet and the pedals approach the twelve and six o'clock positions, i.e., prior to the rider's next down stroke. Without the dual chain tension device and its direct drive capability, there would be no tension on the chain, nor momentum provided to the

rider by the pedal assembly. Accordingly, it would be difficult for the rider to stand where a freewheeling arrangement is involved.

But when the rider's feet and pedals are in this position with the dual chain tension device of the claimed method, there continues to be tension on the chain and there continues to be momentum provided by the flywheel and pedals to the rider. Accordingly, the rider may smoothly transition from sitting to standing and thus assume a different riding position.

This is in complete contrast to freewheeling arrangements where there is insufficient or no tension on the chain in this situation. And as discussed during the August 12, 2004 interview, the Aalto bike did not include the direct drive feature. With systems such as the one in Aalto, the rider would experience awkwardness when transitioning between sitting and standing positions, and would thus not be able to practice the method of the claimed invention.

B. New Claims

During the August 12, 2004 interview, the following types of new claims were discussed. Claims providing more specificity on the bike's frame and how it facilitates the claimed method now appear as claims 35-37. Claims providing more specificity on the bike's handlebar and how it facilitates the claimed method now appear as claims 38-40.

C. Rejection Based on Non-Enablement

During the August 12, 2004 interview, Applicant and the Examiner discussed the rejection of claims 24 and 33 on grounds that the specification was non-enabling as to the ergometer. Applicant believes there is sufficient support for these claims in the

application, but to move this application towards allowance, Applicant has cancelled claims 24 and 33.

CONCLUSION

For all the foregoing, Applicant believes that the pending claims are in allowable condition.

Respectfully submitted,

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Dated: September 3, 2004

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CERTIFICATE OF MAILING (37 CFR 1.8a)

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